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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,250	03/11/2004	Cecil A. Wiseman	24-0098	4201
40158	7590	01/08/2009	EXAMINER	
WOODS FULLER SHULTZ & SMITH P.C.			CECIL, TERRY K	
ATTN: JEFFREY A. PROEHL			ART UNIT	PAPER NUMBER
P.O. BOX 5027			1797	
SIOUX FALLS, SD 57117				
MAIL DATE		DELIVERY MODE		
01/08/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/798,250	WISEMAN ET AL.
	<b>Examiner</b> Mr. Terry K. Cecil	Art Unit 1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 24 July 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-33 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1-33 is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) 32 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 3-11-2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/0256/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

*Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account. The notice of allowance is vacated because the reissue oath/declaration filed with this application is defective.*

## **DETAILED ACTION**

### ***Reissue Applications***

1. The reissue oath/declaration filed with this application is defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414. A reissue applicant must acknowledge the existence of an error in the specification, drawings, or claims, which error causes the original patent to be defective. *In re Wilder*, 736 F.2d 1516, 222 USPQ 369 (Fed. Cir. 1984).

In the reissue oath of September 13, 2004, applicant states that "the reservoir and filter may not be required as processing of the gray-water for use as generally intended may not be necessary". However, Applicant should clarify that *the claims* of the patent were unduly narrow as the inclusion of a reservoir or a filter is not required for patentability. It is noted that the statement in the reissue oath doesn't mention the claims.

***Claim Objections***

2. Claim 32 is objected to because of the following: the comma after the term "one-way valve" was present in newly presented claim 32 *on filing*, but was omitted in the amendment of 11/5/07 which was filed to place the amendment in accordance with 37 CFR 1.173.

Appropriate correction is required.

***Allowable Subject Matter***

3. Claims 1-33 are allowed.

4. The following is an examiner's statement of reasons for allowance for the claims added in this reissue application:

- For claims 18-22 and 29-33, the closest cited art—McDonald et al (U.S. 5,317,766) and Johnson, Jr. (U.S. 5,845,346)—fail to anticipate or render obvious, alone or in any proper combination, the described pressure stabilizing means that is adapted to allow the flow of fresh water in the event the solenoid fails to open the plug—within the systems of claims 18 and 29.
- For claims 12-17 and 23-28, the closest cited art—Johnson, Jr. (U.S. 5,845,346)—fails to anticipate or render obvious, alone or in any proper combination, the first valve having a first plug positioned between a middle section and a first end coupled to the pumping means and a second plug that is positioned between the middle section coupled to a grey water outlet and a second end coupled to a fresh water inlet, wherein the second plug is moved by a solenoid actuator to allow the flow of fresh water to the gray water outlet whenever a pressure sensing means within the first valve indicates the pressure of the gray water has fallen--within the systems of claims 12, 17, 23 and 28.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Terry K. Cecil whose telephone number is (571) 272-1138. The examiner can normally be reached on 8:00a-4:30p M-F..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mr. Terry K. Cecil/  
Primary Examiner, Art Unit 1797

tkc